

MAY 03 2012

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JULIA C. DUDLEY, CLERK
BY: *[Signature]*
DEPUTY CLERK

DEMETRIUS HILL,)	
)	
Plaintiff,)	Case No. 7:08-cv-00283
)	
v.)	<u>ORDER</u>
)	
TERRY O'BRIEN, <i>et al.</i>)	By: James C. Turk
)	Senior United States District Judge
Defendants.)	
_____)	

A jury trial was held in this matter on October 6 and 7, 2011, in the Big Stone Gap division. The jury returned a verdict in favor of Defendant Timothy Taylor and against Defendant William Crum. The jury further awarded damages against Defendant Crum in the amount of \$25,000. In resolving Crum's post-trial motions, the Court denied his renewed motion for judgment as a matter of law based on qualified immunity, but granted his motion for a new trial. After conferring with the parties, the Court set the matter for a new trial. *See* ECF No. 196. On April 13, 2012, Crum filed a timely, non-frivolous Notice of Appeal¹ (ECF No. 202) as to the Court's post-trial denial of judgment as a matter of law as to the issue of qualified immunity.

Except in the most exceptional of circumstances, a Notice of Appeal divests this Court of jurisdiction over the matter that is the subject of the appeal. Griggs v. Provident Consumer Disc. Co., 459 U.S. 56, 58 (1982). Here, since the legal question of qualified immunity is central to whether Crum can properly held liable in this case, his Notice of Appeal divests the Court of

¹ As a federal officer being sued for acts committed within the course of his official duties, Crum had 60 days to file an appeal, as opposed to the usual period of 30 days. *See* Fed. R. App. P. 4(a)(1)(B).

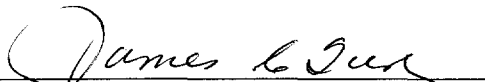
jurisdiction to preside over any new trial until the Court of Appeals has resolved the appeal. *See generally* United States v. Claiborne, 727 F.2d 842, 850 (9th Cir. 1984).

For the foregoing reasons, the currently-set trial dates of June 18–19, 2012 are hereby **VACATED** and the proceedings in this action are **STAYED** pending the receipt of a Mandate from the United States Court of Appeals for the Fourth Circuit.

The Clerk is directed to send copies of this Order to all counsel of record and to the Plaintiff.

IT IS SO ORDERED.

ENTER: This 3rd day of May, 2012.


Senior United States District Judge